EXHIBIT C

Dockets.Justia.com

Vinson&Elkins

Bill Schuurman bschuurman@velaw.com
Tel 512.542.8663 **Fax** 512.236.3422

February 1, 2007

By Email

Michael N. Edelman
Of Counsel, Litigation Department
Paul, Hastings, Janofsky & Walker, LLP
Five Palo Alto Square Sixth Floor
Palo Alto, California 94306-2155

Re: ***AdvanceMe - Your Accusation of Misconduct and the Konop Deposition on February 8, 2007.***

Dear Mr. Edelman:

I refer to your letter of January 30, 2007. In this letter, I am dealing only with your accusation of misconduct and the Konop deposition on February 8.

Your accusation of misconduct is improper and unfounded. If you have any semblance of legitimacy to your accusation, you need to give us the specific facts immediately. The facts must include the specific discussion which you contend was held with Mr. Konop, the specific discussion which you contend was held with Mr. Angrisani, which specific meetings you contend were discussed, and what privileged information was allegedly disclosed.

It is our standard practice to make it clear to witnesses who may have privileged information that we do not seek privileged information and do not want them to disclose any privileged information to us. Further, as you know, Paragraph 14 of the Protective Order was expressly drafted to protect the parties against inadvertent disclosure of privileged information. Therefore, even if privileged information had been disclosed to us, which is not the case, we would not be entitled to assert waiver and would not be entitled to make any use of such information.

Since we received no privileged information from any former AdvanceMe employee, we have no such information which we can use in this case, and we have no such information which can be used in depositions in this case.

I spoke to Mr. Konop this morning about his deposition which is scheduled for February 8. He told me that you had called him on Monday morning, January 29 and had told him that you would advise him later that morning if his deposition was going to be rescheduled to another date. Since he had not heard from you on Monday or on Tuesday, it was his understanding that his deposition would go forward on February 8th as scheduled. He therefore organized his personal and business affairs so that he would be available on February 8 for his deposition, and is not available on the other days which you discussed with him.

He also told me that he was annoyed that his deposition which had been scheduled for Sunday, January 21, 2007 at his request, had been postponed at the last minute and had to be rescheduled. He says that he is an independent third party and is not willing to be pushed around by anyone. The deposition is interfering with his other matters and he wants to get it behind him.

Mr. Konop therefore insists on going ahead with his deposition on February 8, 2007 as scheduled. So you will have to make someone available from your group to participate in that deposition on that day. Since the Hardwick deposition is proceeding at the same venue on February 7, the same person should be able to stay over for the Konop deposition.

The discovery delays in this case have forced us into a situation where a number of depositions need to be taken before the close of fact discovery on March 2. So we all have to adjust our schedules to make sure that the discovery can be completed in time.

Very truly yours,

Bill Schuurman

01489:201865